

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 8748 of 1991****For Approval and Signature:****HONOURABLE MR.JUSTICE M.R. SHAH**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?
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GANGABEN BHATHIJI & 4 - Petitioner(s)

Versus

HIRABHAI VIRABHAI PANCHAL & 4 - Respondent(s)

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Appearance :

MS KUSUM M SHAH for Petitioner(s) : 1, 1.2.1, 1.2.2, 1.2.3,1.2.4 - 5.
None for Respondent(s) : 1,3 - 4.
MR PRAKASH K JANI for Respondent(s) : 1.2.1, 1.2.2, 1.2.3,1.2.4 - 2.
RULE SERVED for Respondent(s) : 5,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 06/10/2005

ORAL JUDGMENT

In this petition under Article 227 of the Constitution of India, the petitioners have challenged the legality and validity of the judgment and order passed by the Gujarat Revenue Tribunal dated 13th September 1991 in Revision Application

TEN.B.A.No. 1527/1984 in allowing the same and quashing and setting aside the order passed by the Deputy Collector, Palanpur, dated 29th March 1984 in Tenancy Appeal No. 26/84.

2. The land bearing Survey No. 81 admeasuring 7 acres and 4 gunthas of land situate at Nawa Deesa, Taluka Deesa was owned by the petitioners which came to be sold to the respondent heirs herein by registered Sale Deed dated 24.11.1977.

3. The Mamlatdar and ALT initiated proceedings under Section 84-C of the Bombay Tenancy and Agricultural Lands Act [hereinafter referred to as "the Act"] after a period of 6 years of the aforesaid sale and the Mamlatdar and ALT, Deesa by his order dated 29th March 1984 withdrew the said notice by holding that by transfer in favour of the respondents there is no breach of Section 63 of the Act and Section 2(6) of the Act. Being aggrieved and dissatisfied with the order passed by the Mamlatdar and ALT dated 29th March 1984 in 84-C Case No. 1382/1983 the petitioners preferred appeal being Tenancy Appeal No. 26/84 before the Deputy Collector, Palanpur and the Deputy Collector, Palanpur by order dated 5.12.1984 allowed the said appeal quashing and setting aside the order passed by the Mamlatdar and ALT, Deesa dated 29th March 1984. Being aggrieved and dissatisfied with the order passed by the Deputy Collector, Palanpur, dated 5th December 1984 in

Tenancy Appeal No. 26/84, the respondents preferred revision application before the Gujarat Revenue Tribunal being Revision Application TEN.B.A. No. 1527/1984 and the Tribunal by judgment and order dated 13th September 1991 allowed the said revision application by holding that even the proceedings under Section 84-C of the Act were initiated by the Mamlatdar after unreasonable period. Being aggrieved and dissatisfied with the judgment and order passed by the Gujarat Revenue Tribunal dated 13th September 1991 in Revision Application TEN.B.A. No. 1527/1984, the petitioners, original-sellers have preferred the present Special Civil Application under Article 227 of the Constitution of India.

4. It appears from the record, that it is the contention on behalf of the petitioners that the Gujarat Revenue Tribunal has materially erred in allowing the revision application on the ground that proceedings are initiated by the Mamlatdar & ALT after unreasonable period without appreciating and considering the fact that there is nothing on record to show that the respondents had invested any amount and/or changed the position and therefore only on the ground of delay in exercise of powers the Gujarat Revenue Tribunal ought not to have allowed the said revision.

5. It is required to be noted that so far as petitioners are concerned, they seem to have pocketed

the money and therefore as such it is not open for the petitioners to make a grievance that the transaction in question is in breach of Section 84-C of the Act as they themselves are the parties to the transaction and illegality, if any. Even otherwise, as stated above, the proceedings came to be initiated by the Mamlatdar and ALT after a period of 6 years and therefore the same was after unreasonable period. As held by the Hon'ble Supreme Court as well as this Court in catena of judgments, proceedings under Section 84-C of the Act are required to be initiated within a reasonable period ranging between 2 to 4 years. In the present case, as stated above, the proceedings came to be initiated by the Mamlatdar and ALT under Section 84-C of the Act after a period of 6 years which cannot be said to be within reasonable period. Under the circumstances, there is no illegality committed by the Gujarat Revenue Tribunal in allowing the revision application by holding that proceedings were initiated by the Mamlatdar and ALT after unreasonable period. There is no jurisdictional error much less an error of law committed by the Gujarat Revenue Tribunal in allowing the revision application which calls for interference of this Court exercising powers under Article 227 of the Constitution of India.

6. For the reasons stated hereinabove, the petition fails. Rule is discharged. Ad-interim

relief, if any, stands vacated forthwith. However, there will be no order as to costs.

[M.R. Shah, J.]

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